

KLAMATH INDIAN RESERVATION.

FEBRUARY 25, 1876.—Committed to a Committee of the Whole House and ordered to be printed.

MR. LAFAYETTE LANE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 1316.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 1316) to adjust the claims of the owners of lands within the limits of the Klamath Indian reservation, in the State of Oregon, report as follows

The Congress of the United States, by an act approved July 2, 1864 granted to the State of Oregon certain lands to aid in the construction of a military wagon-road from Eugene City to the eastern boundary of said State. Said grant embraced the odd sections within the limits of three miles on each side of said road. Subsequently, October 24, 1864, the legislative assembly of the State of Oregon designated the Oregon Central Military Wagon-Road Company as the company to receive the grant and construct the said road. In January, 1870, the road, being wholly completed, was accepted by the governor of Oregon, Hon. George L. Woods, and duly certified as constructed throughout its entire length.

In February, 1870, a treaty with the Klamath Indians was ratified, which treaty set apart a large tract of land as the Klamath Indian reservation. Said reservation embraced within its limits 130,377 acres of land which, under the act of July 2, 1864, legally inured to the said road company. The particular section of road which runs through the reservation was accepted according to law by the governor of the State as early as 1866, four years prior to the ratification of the treaty referred to.

Until recently the Indians seem not to have been aware of the existence of any adverse claim to any portion of the lands embraced within the reservation. They have, however, come to realize this fact, and are growing somewhat restive in the consideration thereof. The proprietors of the grant, in order to avoid trouble with the Indians and to secure a settlement of this matter, have indicated a willingness to forego their claim to lands within the limits of said reservation, provided the Government will permit them to locate an equal number of acres elsewhere in said State of Oregon.

The Sprague River Valley, in which these disputed lands are situate, is one of the richest and most fertile tracts within said grant, and it is scarcely possible that the company could be the gainer by the change from those to any other unoccupied lands in that State. They have paid taxes upon said lands, and in many instances have patents therefor. It is quite clear that the company, or its assigns, have rights which

should be regarded by the General Government. If their rights under the act making the grant are strictly enforced, a serious conflict with the Indians is inevitable. To prevent the possibility of such a calamity, and to secure fair and equitable adjustment in the premises, this measure is urged to a favorable consideration. It will be observed that there is a provision in this bill, that no scrip or patents to lands elsewhere in the State shall be given in lieu of the lands within the reservation until the proprietors of said grant shall execute and deliver to the Commissioner of the General Land-Office a deed conveying to the United States all their right and title to the said lands. The accompanying exhibits, petitions, and communications of an official character, fully sustain the view of the matter taken by the committee.

The committee report the following amendment, to wit: Add to said bill the following: "*Provided further*, That no scrip issued in pursuance of the provisions of this act, shall be located upon other than the public lands lying within the said State of Oregon." The committee recommend the adoption of said amendment and the passage of said bill.

STATE OF OREGON, EXECUTIVE OFFICE,
Salem, October 22, 1875.

SIR: By act of Congress approved July 2, 1864, certain public lands were granted to the State of Oregon "to aid in the construction of a military road from Eugene City to the eastern boundary of said State." By an act of the legislative assembly of the State of Oregon, approved October 24, 1864, this grant was conferred by the State upon the Oregon Central Military Road Company. The road contemplated by said act of Congress has been completed, and, by my predecessor, was examined and certified as constructed and completed throughout its entire length, according to the terms of the grant, on January 12, 1870. The treaty with the Klamath Indians, of 1864, was ratified February 17, 1870. (Statutes, 16, p. 707.) The line of the wagon-road passes through Klamath Lake Basin, and the Klamath Indian reservation, as established subsequent to the listing of the wagon-road lands to the State for the use of said wagon-road company, embraces 130,377 acres of said lands belonging to the wagon-road company.

The Klamath Indian reservation was finally confirmed as such without notifying the Indians for whose use it was set apart, that any portion of it was at that time the property of said wagon-road company. The entire wagon-road grant has been transferred by sale to a number of prominent capitalists, chiefly of the State of California, as I understand, without notice that the Klamath Indians claimed to hold the lands of the grant listed to the State within said reservation, as belonging to them by virtue of the treaty.

The wagon-road company and their successors in interest have paid taxes upon said reservation-lands from the time when they were segregated to said company. The present owners now desire to dispose of these lands to settlers; and persons are ready to become purchasers. But the Klamath Indians lately discovering that said company claimed these lands by virtue of the grant mentioned, resist the claim and threaten to resist the occupancy of any portion of their reservation by settlers.

I am informed that the owners of this grant are willing to take a money indemnity or lieu lands on any just basis, for the surrender of all of these lands falling within said reservation.

I desire to make special presentation of this fact, that the Klamath Indians occupy the same region of country which was the home of Captain Jack and his band of less than a hundred warriors, whose hostility cost the General Government and this State so many lives and so much money, and to urge upon the attention of your Department the vital importance of early action on the part of the General Government in adjusting this matter. From my experience of nearly twenty-five years upon the Pacific borders, I do not hesitate to say that if this question of title to lands within the Klamath reservation remains for any considerable period unadjusted, the most serious Indian hostilities will occur, disastrous to the settlements in Southern Oregon and Northern California, as well as expense to the General Government in an amount far exceeding any cost of present settlement of the matter.

Could the reservation be vacated and the Klamath Indians be removed to other lands, I presume it would be the most satisfactory solution of the question, as far as the

owners of these lands are concerned; but if this cannot be done, it would appear but common justice and fair dealing that other lands of equal value be given in release of these, or that a fair money compensation be made for the same.

I have the honor to be, sir, very respectfully, your obedient servant.

L. F. GROVER,
Governor of Oregon.

The SECRETARY OF THE INTERIOR,
Washington, D. C.

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT,
Sacramento, Cal., January 28, 1876.

SIR: I am informed that by an act of Congress, approved July 2, 1864, certain lands were granted to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of the State, and that by an act of the legislature of Oregon, approved October 24, 1864, this grant was conferred on the "Oregon Central Military Road Company." I am further informed that the proposed military road was completed according to the terms of the act of Congress making a grant of land in aid of the construction thereof, and the lands granted were listed to the State; also, that at a date subsequent to the transfer of these lands to the State of Oregon, a treaty was ratified with the Klamath and other Indians, by which a portion of the lands already donated for the purpose above named, was set apart for an Indian reservation.

The Oregon Central Military Road Company, on which the grant was conferred by the State of Oregon, has since sold the land to other parties, and it is now owned by a company of capitalists, most of whom, as I am informed, are citizens of this State. The portion of it embraced within the Klamath Indian reservation, about 130,000 acres, they are unable to make use of for purposes of settlement and cultivation, though, as I am informed, they pay taxes on it annually, under the laws of Oregon, for State and county purposes. Holding title to this land from the Federal Government, and paying taxes on it under the laws of the State, they naturally desire to obtain possession of it, so that they may use it; or failing in this, that they may receive the value of the land, either in cash or in other lands elsewhere, and I think in this respect their desires are only just and reasonable, and are entitled to consideration from the Government.

There are other considerations, growing out of the relation of the reservation Indians to these lands, which make it a matter of very great importance that the rights of these parties should be adjusted on some satisfactory basis at as early a day as possible.

The Indians on the reservation are jealous and warlike, and if they come to understand that citizens have a title to a portion of the land embraced in their reservation, and which they have heretofore regarded as exclusively their own, by a title resting on the good faith of the Government, it is not probable that they will contemplate the situation with complacency. On the contrary, it is to be feared that the discovery of such fact by them would be the signal for them to commence hostilities. And while it cannot be doubted what the ultimate result of such action on their part would be, the loss of life and property consequent on the outbreak of the Modoc, in the same section, is too recent to allow us to regard lightly the prospect of another occurrence of the same kind.

The rights, therefore, of the citizens owning these lands, the good faith of the Government pledged to the Indians in solemn treaty, and the safety and welfare of the settlers in the vicinity of the reservation, all conspire to demand that the Government shall take prompt steps either to put the citizens in possession of the land which they hold by title from the Government, or to extinguish their title to the lands by giving them an equitable consideration therefor. To place them in possession of their lands would involve the breaking up of the reservation and the removal of the Indians to some other locality; that this ought to be done, I am not prepared to say. But if it is thought best to retain the reservation where it is—and the question of its removal deserves very serious considerations before its determination in the affirmative—I certainly think the citizens in question are entitled to relief in the other manner suggested.

Trusting that this matter will receive your early attention, I have the honor to be, sir, very respectfully, your obedient servant,

WILLIAM IRWIN,
Governor of State of California.

Hon. Z. CHANDLER,
Secretary of the Interior, Washington, D. C.

KLAMATH INDIAN RESERVATION.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND-OFFICE,
Washington, D. C., November 4, 1874.

SIR: I have the honor to acknowledge the receipt of a communication from your Office, dated 17th ultimo, respecting the action of this Office touching the lands in what is known as the Klamath Indian reservation, in Oregon, embraced in the limits of the grant of July 2, 1864, for the Oregon central military wagon-road.

In reply, I have to state that the odd sections falling within said reservation have been approved to the State for the benefit of the road, within the three and six mile limits, as follows:

	Acres.
April 21, 1871.....	51,248. 56
December 8, 1871.....	37,414. 51
April 2, 1873.....	4,487. 34
Total.....	93,150. 41

The treaty creating the reservation not having been ratified until 1870, and not having been brought to the attention of this Office until after the approval of the lands, no formal decision upon the rights of the State has been promulgated, the question not having been examined with reference to the force of the reservation, made subsequent to the date of the grant, to take the lands out of its operation.

Very respectfully,

S. S. BURDETT,
Commissioner.

Hon. E. P. SMITH,
Commissioner of Indian Affairs.

KALMATH AGENCY, OREGON, October 16, 1873.

SIR: Having returned to the reservation and thought further relative to the subject-matter of your communication of September 17, in regard to the lands of the Oregon Central Military Road Company, located on this reservation, I deem it proper to express more fully my views.

By the treaty of October 14, 1864, the Government of the United States pledged itself in the most solemn way to secure this land to the Indians and their heirs forever. This was thoroughly explained to them, and has been repeatedly since, and their good feelings toward the Government and its white citizens to-day rests on the conviction that this pledge will be conscientiously fulfilled.

Say to them, the Government has deeded this land to the road company, and they will reply, "The Government made a solemn treaty with us, giving us a title to all this land, only reserving the right of way for roads, nothing being said about the location of lands, and we cannot understand that this is not a scheme to take our country from us."

They will look upon this as a violation of the treaty by which the Government does positively give them an assurance of their permanent ownership of this identical land, and they will say, "If the Government violates one pledge, there is no certainty that it will fulfill any."

I do not thus express myself without having as fully considered the subject as I am capable of doing. I have also counseled with persons of sagacity and reliability who are fully conversant with the feelings of the Kalmath, Modoc, and Snake Bands located on this reservation, and I will say that it is my honest conviction that, if a public announcement were made to-day to the 3,000 white and red inhabitants of this section of the country, that we would stand upon the verge of a war by the side of which the late difficulty with the renegade band of Modocs would be dwarfed into insignificance. A combination of Kalmaths, Modocs, Snakes, and Putes could at a single stroke destroy the sparse settlements of Southeastern Oregon, and, taking refuge in the volcanic fields of this country, with the supplies of arms and subsistence secured by their success, would cost the Government millions of money and a thousand lives before they could be subjugated.

Why will not the Government, in order to make its promises good to secure peace for both Indians and whites and the civilization of the red men, procure a title to the lands for the Indians? The outlay would be insignificant as compared with the expenses of a war, which, without the greatest care and caution, will result from this most unfortunate affair.

During the Modoc war there were always irresponsible parties ready to talk to these Indians and make them distrustful of both the reservation authorities and their Government. Among other things, they were told that as soon as the Modocs were subdued and taken from the country, the Government would steal away the reservation lands and take them away. Although the Indians knew these parties were not much entitled to credit, there was at one time a great deal of excitement, and they

could only be satisfied by assuring them that the Government would surely make its promises good, and secure to them and their children forever all the lands of the Klamath reservation. Suggest this thing to them now, and the galling wound will be opened afresh, and they cannot be persuaded to believe that the Government means to allow them justice.

It is possible that, with judicious management and the purchase of all the road-lands south of Sprague's River, the Indians could be prevented from open hostility, but it is unmistakably true that nothing short of a title to the reservation would be justice.

I have expressed myself plainly and distinctly, knowing that you wish to know the actual facts in the case, and not that I wish to draw the picture with brighter colors than belong to it.

I would respectfully insist on the Department sending out a man of sagacity and experience to inquire into this matter in all its bearings; some one in whom the Department can repose entire confidence to make a report and suggestions in this case, which is one, perhaps, of greater consequence than any question now remaining unsettled among the Indians in this section of the Union.

Very respectfully, your obedient servant,

L. S. DYAR,
United States Indian Agent.

Hon. EDW. P. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

KLAMATH AGENCY, OREGON, *September 23, 1874.*

SIR: According to agreement, I wrote you very briefly relative to the lands claimed by the Oregon Central Military Road Company, within the limits of the Klamath reservation.

Treaty was concluded by the Government with the Klamath, Modoc, and Yahooskin Snake Indians, on October 4, 1864, but was not fully ratified by Congress and signed by the President until February 17, 1870. Meanwhile, (between 1864 and 1870,) a bill was passed by Congress granting said company the right to build a road from near Eugene City, in the Willamette Valley, to the eastern boundary of the State, and granting also to the company every alternate section of land for three miles on each side of the road to aid in the construction of the same.

This road runs diagonally through the whole length of the Klamath reservation, a distance of sixty miles or more, traversing the very best portions of the same; in fact, is so located as to embrace within the limits of the six miles in breadth more than one-half of all the land upon the reserve suitable for cultivation or for winter grazing.

I am informed by the Commissioner of Indian Affairs of the decision that the road company has the prior right to these alternate sections upon the reserve.

Now, if Sprague River Valley be taken from these Indians, the only hope of their ever becoming self-supporting is removed; for they must depend on stock-raising in the future as their only means of subsistence, and Sprague River Valley, nearly all of which is embraced in this claim, is the only reliable winter pasturage upon the reservation.

Unless some action be taken by which these lands are secured to the Indians, the most serious results are inevitable.

I hope you, with the Indian commissioners, will induce the Commissioner of Indian Affairs to furnish funds for the Indians at Yainax sufficient to keep them from starvation.

I have been obliged to close my school for want of means to support it. This I very much regret, but no other course is possible. Mr. Werden returned to-day all right.

Very respectfully, your obedient servant,

L. S. DYAR,
United States Indian Agent.

Hon. WM. VANDEVER,
United States Inspector.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
February 8, 1875.

SIR: In reply to the inquiry contained in your letter of the 6th instant relative to Senate bill 1164, entitled "A bill to adjust the claim of the owners of land within the limits of the Klamath Indian reservation in the State of Oregon," what, if any, action may have been had by me, or under my sanction, relative to the subject-matter of the bill, and requesting an expression of Office views respecting the same, I would respectfully state that the bill referred to has not been submitted for the views of this Office.

A report was made to the honorable Secretary of the Interior on the 7th ultimo, (copy herewith,) which contained the views of this Office on the subject-matter of the bill. I would further state that it is deemed very important and desirable that the

Klamath Indian reservation in Oregon should remain intact, as contemplated by the treaty of October 14, 1864, (16 Stat. at L., 707,) and that such action be taken as will best enable the accomplishment of this end.

Very respectfully, your obedient servant,

E. P. SMITH,
Commissioner.

Hon. COMMISSIONER GENERAL LAND-OFFICE.

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS,
January 7, 1875.

SIR: I have the honor to call your attention to the claim asserted for lands within the Klamath Indian reserve in Oregon by said State, under act of Congress granting alternate sections of the public lands to aid in the construction of wagon-roads. The attention of the Department was called to this subject by communication from this office on the 11th November last. A brief statement is as follows:

By an act of Congress approved July 2, 1864, (United States Statutes at Large, vol. 13, p. 355,) there was granted to the State of Oregon, to aid in the construction of a military wagon-road from Eugene City, by way of Middle Fork of Willamette River, and the most feasible pass in the Cascade Range of Mountains near Diamond Peak, to the eastern boundary of the State, alternate sections of public lands designated by odd numbers for three sections in width on each side of said road.

Subsequently on the 14th of October, 1864, a treaty was concluded (ratified February 17, 1870) (United States Statutes at Large, vol. 16, p. 707) between the United States and the Klamath and Modoc tribes, and Yahooskin band of Snake Indians, by the terms of which the United States recognized the existence of the Indian title or claim to the region of country therein described, by having the Indians cede and relinquish their right, title, and claim thereto to the United States, with the proviso, "that the following described tract within the country ceded by the treaty, shall until otherwise directed by the President of the United States be set apart as an Indian reservation." Then follows a description of the tract of country reserved.

This Office being in receipt of information that the State of Oregon claimed the lands, granted in the act first above named, along the entire route of the wagon-road, (which passes through the tract of country reserved, as aforesaid, for Indian purposes,) under date of the 17th of October last, addressed a letter to the General Land-Office requesting to be advised what action, if any, had been taken by that Office relative to the claim of said State, so far as the alternate sections, within the limits of the said Indian reservation, were concerned. A reply was received to this letter, dated the 4th of November last, in which it was stated "that the odd sections falling within said reservation have been approved to the State for the benefit of the road within the three and six mile limits, as follows:

	Acres.
April 21, 1871	51,248.56
December 8, 1871	37,414.51
April 2, 1873	4,487.34
	93,150.41"

All since the date of the ratification of the treaty. In consequence of this state of facts, this Office submitted for the consideration and decision of the Department—

"First. If the Indian title had not been extinguished, and was in existence, the same being recognized, to the region of country in question by the treaty of October 14, 1864, did the grant to the State of Oregon, made by the act of July 2, 1864, which is confined to public lands, attach to any of these lands?

"Second. If the grant to the State of Oregon by the act of July 2, 1864, did not attach, it is respectfully submitted whether steps should be taken to have the approval of the lands to the State annulled.

"Third. If an annulment of such approval is deemed impracticable, ought not the Indians to be re-imbursed by an appropriation by Congress of the value of the lands within their reservation which have been approved to the State?"

Other questions were also submitted relative to this matter.

Under date of the 23th ultimo, Mr. B. J. Pengra, agent for the parties in interest, in a communication to this Office, states that the lands granted to the State of Oregon by the act of July 2, 1864, were, by the legislative assembly of said State, in September following, granted to the Oregon Military Road Company, and, so far as the public surveys have been extended, have been located and approved to said company, by the State, and by the United States, and that said lands belonging to said Oregon Road Company by virtue of said acts have recently been conveyed by said company to B. J. Pengra, of Oregon, and by said B. J. Pengra to Nicholas Luning, Edgar Mills, N.

D. Rideout, W. H. Parks, G. W. Colby, W. C. Belcher, John Boggs, and others of the State of California.

Mr. Pengra further states as follows:

"I have therefore to inform you that I am instructed by the owners of the grant to propose to your Office, as an equitable settlement of the matter, and to indemnify them for the lands taken by the Government, that Congress pass an act at its present session allowing said owners to locate, in lieu of their lands embraced in the Klamath reservation, an equal number of acres of any vacant Government lands elsewhere, and authorizing the Secretary of the Interior to issue such certificates as will enable them to make such locations."

In view of the questions involved and the difficulties that might attend an annulment of the approval of the lands to the State within said reserve, and as affording a possible solution thereof, I would respectfully recommend that the proposition made by Mr. Pengra in behalf of the parties in interest be recommended to Congress with the request that such action be taken by that body as shall, in its judgment, be deemed proper and necessary to permanently settle the question.

Very respectfully, your obedient servant,

E. P. SMITH,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

To the honorable Commissioner of Indian Affairs, Washington, D. C.:

The undersigned respectfully represent that they are settlers and citizens living in the vicinity of Klamath reservation, Oregon and California, and being well acquainted with the character and past history of the various tribes of Indians upon that reservation, induces them earnestly to solicit an immediate settlement of the private land-claims within the boundary of the reservation, as they fully believe if it were known by the Indians that they had not full and complete right to the whole reservation, and that the Government hesitated in protecting that right, the consequences would be most alarming, and, before relief could be had, the whole of Southeastern Oregon and Northern California would be depopulated.

S. B. CRANSTON,
United States Register, Linkville.

GEORGE CONN,
United States Receiver, Linkville.

A. F. LEWELLING,
County Commissioner, Lake County.

E. C. MASON,
County Judge, Lake County.

GEORGE NURSE.
THOMAS MULHOLLAND,
Sheriff, Lake County.

N. HOPKINSON,
County Clerk, Lake County.

J. P. ROBERTS,
County Commissioner.

L. B. APPLGATE.

JACOB BALES.

J. THOMPSON,
SAM'L D. WHITMAN.

A. D. BUCK.

ROBT. TAYLOR.

L. S. BALL.

WM. ROBERTS.

W. J. SMALL.

H. M. THATCHER,
JOHN T. FALKNER.

CAPT. D. J. FERREE.

C. J. PHILLIPS.

R. B. HATTON.

JOHN DICK.

ASA S. HARRON.

F. W. SMITH.

There are several other petitions before the Department, but I have no copy of them.
G. W. C.